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**HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR**

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**SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ**

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**W.P. NO.827 OF 2005**

**PETITIONER** Mahavir Prasad Agrawal, S/o. Shri Jagatram Agrawal, Aged 46 years, R/o. Village Patthalgaon, Tahsil Patthalgaon, District – Jashpur-Nagar (C.G.)

**VERSUS**

**RESPONDENTS**

1. State of Chhattisgarh, Through the Secretary, Forest Department, D.K.S. Bhawan, Raipur (C.G.)
2. The Forest Range Officer, Dharamjaigarh, Distt. – Raigarh (C.G.)
3. Shri Sunil Kumar Agrawal, S/o. Arjun Lal Agrawal, Aged about 34 years, R/o. Lailunga, Tahsil Gharghoda, Distt. Raigarh (CG).
4. Authorized Competent Officer & Sub-Divisional Officer (Forest) Dharamjaigarh Sub-Division, District-Raigarh (CG).

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Present: Shri P. Diwakar, learned senior counsel with Shri P.R. Patankar, learned counsel for the petitioner.
Shri Sanjay S. Agrawal, learned G.A. for the State and its Authorities.

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**ORAL ORDER**
**(Passed on 26th July, 2006)**

The petitioner's motor vehicle, a truck, bearing Registration No.CG-14A/0211 (TATA Truck, Model 2002) was seized on the intervening night of 31.12.2004 and 01.01.2005 on the alleged ground that the said truck was found carrying contraband forest produce in violation of the provisions of the Indian Forest Act. The confiscation proceedings are initiated against the petitioner.

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(2) When the matter stood thus, the petitioner moved an application before the Authorized Competent Officer and Sub Divisional Officer (Forest), Dharamjaigarh Sub-Division, District Raigarh, the 4th respondent herein, for interim custody of the truck pending disposal of the proceedings. That application was rejected by the 4th respondent dated 16.02.2005 vide Annexure-P/9. The petitioner feeling aggrieved by the said order of the 4th respondent has preferred this writ petition.

(3) Heard learned counsel for the parties. Shri P. Diwakar, learned senior counsel for the petitioner, on instruction, would submit that there is absolutely no progress in the confiscation proceedings initiated by the 4th respondent so far. He would submit that the subject motor vehicle was purchased by the petitioner on hire-purchases basis and he had already incurred heavy loss due to seizure and therefore, the Court be pleased to release the subject motor vehicle to the interim custody of the petitioner pending disposal of the proceedings. While opposing the prayer, learned Govt. Advocate would submit that since the petitioner is guilty of committing forest offence, it is not safe to release the subject motor vehicle to the interim custody of the petitioner. He would submit, it is more so, having regard to the provisions of Section 52-C of Indian Forest Act.

(4) When a valuable property of the petitioner has been seized on the ground that the petitioner has committed an offence thereby depriving him from using the motor vehicle and earning his livelihood, it is expected of a statutory authority like the 4th respondent to initiate and conclude confiscation proceedings with diligence and promptitude. A statutory authority cannot seize a motor vehicle and

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forget the proceedings to the peril of the owner of the vehicle for years. A Constitutional Court has to balance equities keeping in mind the State interest and the rights of the citizens and pass appropriate interim orders. There is absolutely no satisfactory explanation from the 4th respondent or any other responsible State Authorities why the 4th respondent, the statutory authority, did not conclude the confiscation proceedings initiated so far. The 4th respondent cannot take his own sweet time to conclude the confiscation proceedings at the peril of the interest of the petitioner. In that view of the matter, I think that the ends of justice would be met by releasing the subject motor vehicle to the interim custody of the petitioner, however, subject to certain conditions to safeguard the public interest.

(5) In the result, I dispose of this writ petition directing the 4th respondent to release the subject motor vehicle bearing Registration No. CG-14A/0211to the interim custody of the petitioner pending disposal of the confiscation proceedings subject to the petitioner furnishing bank guarantee for the value of the subject motor vehicle as fixed by the local jurisdictional Motor Vehicles Inspector to the satisfaction of the 4th respondent. This interim arrangement is subject to the final order to be made by the 4th respondent in the main confiscation proceedings. No costs.

**Sd/-**
**Chief Justice**

Bini